

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAI'I

SPORTS SHINKO CO., LTD.,) CV 04-00124 BMK
) CV 04-00127 BMK
Plaintiff,)
) CONSOLIDATED CASES
vs.)
) **DECLARATION OF**
QK HOTEL, LLC, et al.,) **GLENN T. MELCHINGER;**
) **EXHIBITS "64"; "71"; & "78"**
Defendants,)
)
and)
)
FRANKLIN K. MUKAI, et al.,)
)
)
Third-Party Plaintiffs,)
)
)
vs.)
)
SPORTS SHINKO (USA) CO.,)
LTD., et al.,)
)
)
Third-Party)
Defendants,)
)
and)
)
SPORTS SHINKO (HAWAII) CO.,)
LTD., et al.,)
)
)
Third-Party Defendants/)
Counterclaimants,)
)
vs.)

)
QK HOTEL, LLC, et al.,)
)
)
Third-Party Counterclaim)
Defendants.)
)
AND CONSOLIDATED CASES)

DECLARATION OF GLENN T. MELCHINGER

Pursuant to 28 U.S.C. § 1746, I declare that:

1. I am an attorney with the law firm of Alston Hunt
Floyd & Ing, counsel for Plaintiff and Third-Party Defendants,
SPORTS SHINKO CO., LTD.; SPORTS SHINKO (USA) CO., LTD.;
SPORTS SHINKO (HAWAII) CO., LTD.; SPORTS SHINKO (MILILANI)
CO.; SPORTS SHINKO (KAUAI) CO., LTD.; SPORTS SHINKO
(PUKALANI) CO., LTD.; SPORTS SHINKO RESORT HOTEL
CORPORATION; SPORTS SHINKO (WAIKIKI) CORPORATION; and
OCEAN RESORT HOTEL CORPORATION (the "SS Companies").

2. I make this declaration based on my personal
knowledge and am competent to testify as to the matters set forth
herein.

3. Attached as Ex. "64" hereto is a true and correct copy of a September 6, 2005 transmittal memo from my office to counsel for the KG parties documenting the transmittal of documents numbered 256 0239 - 256 0810. This production included the financials for Sports Shinko (USA) Co., Ltd. ("SS USA") and its subsidiaries (256 0253 - 256 0282), including Sports Shinko (Waikiki) Corporation (256 0274 - 256 0276; *see* KG's Ex. "6"), that I am informed were created using the "purchase accounting" method, but that were not used in preparing the 2004 consolidated tax return for SS USA.

4. Attached as Ex. "71" hereto are true and correct copies of two charts from the Bank of Japan website, www.boj.or.jp, which can be accessed from:
http://www.boj.or.jp/en/type/stat/dlong/fin_stat/rate/data/primeold2.htm

5. The charts at this web link purport to reflect the Prime Lending Rate offered by the principal banks in Japan from January 1989 thru July 2007. On August 24, 2007, I accessed the Bank of Japan website and printed these charts.

6. I traveled to Osaka, Japan in late March, 2004 to review and recover Sports Shinko (“SS”) documents that had been gathered in SS’s Osaka Main office. This was roughly a month after Sports Shinko Co., Ltd. (“SS Japan”) filed suit. I found about 650 boxes of various records (at an estimated average of 2,300 pages per box). The boxes were in great disarray in that they were often without labels as to content and had all been stacked together in a room. It took over three weeks of work with an assistant to perform an initial review of the boxes and determine which were potentially responsive. I have also been informed that about 100 boxes of documents that had been kept at the SS Tokyo office were discarded or shredded prior to the interim Trustee taking control of that office in early 2002. The Trustee supplied several documents to me that had been turned over to him by an employee who had been directed to shred them. Other documents have been found only in electronic form in what was essentially a deleted form, invisible to the operating system, in open “slack space” on a SS desktop hard drive, waiting to be overwritten. Other documents on a laptop that was previously claimed to be lost were produced only

in April 2007--over *four years* after document production requests were served on the producing party, Satoshi Kinoshita. Further, SS's former lawfirm engaged the Trustee in a protracted legal battle when turning over SS's client files. It took approximately 9 months, demands by the Trustee on behalf of SS, a subpoena, and two motions to obtain the documents from former counsel. In sum, the documents in support of the Plaintiff's claims have been painstakingly gathered and assembled from a variety of sources through great efforts, despite several hurdles.

7. Attached as Exhibit "78" hereto is a true and correct excerpt from Plaintiffs' Response to Defendants First Request for Admissions; First Request for Answers to Interrogatories; and First Request for Production of Documents to Plaintiffs, served May 13, 2005.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Honolulu, Hawai'i on August 24, 2007.

/S/ Glenn Melchinger
GLENN T. MELCHINGER